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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/616,870    07/14/00    BEAUDRY

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QM12/0807

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EXAMINER

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LEWIS, K	
ART UNIT	PAPER NUMBER

3761  
DATE MAILED:

08/07/01


*17*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No. <b>09/616,870</b>	Applicant(s) <b>Beaudry</b>
Examiner <b>Kim M. Lewis</b>	Art Unit <b>3761</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on 4/5/01, 5/18/01 and 7/25/01
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4)  Claim(s) 26, 32-40, 42-54, and 104-117 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 33-40, 42-54, and 104-117 is/are allowed.
- 6)  Claim(s) 26 is/are rejected.
- 7)  Claim(s) 32 is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a)  All b)  Some\* c)  None of:
1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15)  Notice of References Cited (PTO-892)                      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 1                      20)  Other:

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### DETAILED ACTION

This office action is in response to the amendment filed 5/18/01.

#### *Information Disclosure Statement*

1. The information disclosure statement papers filed 4/5/01 and 7/25/01 have been received, which papers have been made of record in the application file wrapper.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 26 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,534,010 ("Peterson").

Regarding claim 26, Peterson discloses a closure device for a skin wound comprising a first section having adhesive on a first side (col. 3, lines 5-6), an elastic second section (col.3, lines 31-34) and a third section having adhesive on a first side (col. 3, lines 6-7), as indicated on the front page of the patent. Further, as can be seen from the front page of the patent, the first section is connected to the second section and the second section is connected to the third

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section. The applicant should note that it has been held that the term “integral” is sufficiently broad to embrace construction united by such means as fastening and welding. *In re Hotte*, 177 USPQ 336, 328 (CCPA 1973).

***Response to Arguments***

4. In response to applicant’s argument that the second section of Peterson has no linear margins. The examiner disagrees for the following reason:

- Webster’s II New Riverside University Dictionary, 1994, defines the term *section* as “1.[a] part or piece of something: portion”. As such, the second section *may be* a part of or a portion of the 1st and 3rd sections. In the present case, the examiner defines the second section as being between the 1st and 3rd sections and as comprising the linear end margins as shown on the marked-up copy of the front page of Peterson.

***Allowable Subject Matter***

5. Claims 32 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 33-40, 42-54 and 104-117 are allowed.

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*Conclusion*

7.. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

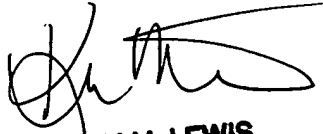
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

kml  
August 6, 2001

  
KIM M. LEWIS  
PRIMARY EXAMINER  
TC 3760